

REMARKS

Claims 21, 28, 29 and 33-36 remain in the present application.

The claims have been amended to define the fact that (1) the cells and glue are applied to the surgical area in the absence of scaffolding and, further (2) to define that the materials are applied as liquids, pastes or gels. No new matter has been added by virtue of these amendments. Antecedent basis for amendment (2) is found in the present application on page 22 in paragraph [060]. Antecedent basis for amendment (1) is found in numerous examples in the application (eg, pages 13-14 in paragraphs [041] and [042] and in fig. 7). In those examples, the cells/glue mixture is applied directly to the surgical area, and while in some embodiments strips or mesh can be used as a covering (although not in the examples noted above), those materials are not used in a structure on which the cells and glue are applied (ie, they are not used as a scaffolding).

The Examiner has maintained his rejection, under 35 USC § 103, based on WO 96/22115 ("WO '115") in view of the US Patent 6,692,738 (MacLaughlin). In repeating that rejection, the Examiner argued that the previously submitted claims did not preclude use of scaffolding or require application of the composition as a liquid. The amendments herein clearly address those issues and, therefore, based on the Examiner's comments, clearly distinguish both the WO '115 and MacLaughlin references.

By specifying that the epithelial cell/protein mixture is deposited directly on the injured area, as a liquid, paste or gel, and in the absence of scaffolding, the method defined by the claims of the present application clearly distinguishes over both references cited by the Examiner. Neither the MacLaughlin patent nor WO '115 teaches applying cells directly onto the surface of a

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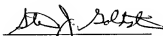
wound site, in the absence of scaffolding, and in the form of a liquid, paste or gel. McLaughlin teaches the building of a "scaffolding" to form new tissue, the cells are not deposited directly onto the wound site. Rather, in McLaughlin the scaffolding holds the cells in a matrix to grow new tissue within the matrix as it is absorbed slowly and allows revascularization. Cells are injected into the scaffolding, but are not deposited directly onto the wound site in the absence of the scaffolding. The scaffolding is clearly a critical element in McLaughlin. WO '115 is somewhat similar in that regard, requiring the use of barrier materials. WO '115 and McLaughlin cannot achieve their result without the use of scaffolding or barrier materials. The application of such materials in surgery is difficult and requires greater time and skill than applying a liquid, paste or gel, as defined by the present claims, directly onto the wound site. Such direct application, in the absence of scaffolding, as required by the present claims, is not envisioned by either reference cited by the Examiner and, therefore, it is submitted that the present claims are allowable over those references. Accordingly, it is respectfully requested that the rejection under § 1 03 be withdrawn.

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In light of the foregoing, it is respectfully submitted that the claims of the present application, as amended herein, are now in form for allowance. Accordingly, reconsideration and allowance of those claims, as amended herein, are earnestly solicited.

Respectfully submitted,

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